

the purpose of raising or securing the payment of this annuity; nor can it be construed to give the plaintiff *Anna Maria* an estate for life, or any other lesser estate in the lands charged with the payment of the annuity. These infant devisees could only take this estate subject to the charge upon it, and the annual rents and profits, as it is now shewn, so far exceed the annuity in amount as to demonstrate, that it is much to their benefit so to take it. And consequently, all their property, in respect of this large amount of assets thus placed in their hands, and which they have taken, must be held liable for the payment of this annuity.

For the arrears which accrued since the death of the testator, and were left unpaid by *Deborah Duncan*, the late guardian of these infants, her sureties as guardian, if she gave any, or her legal representatives may be held liable; but their estate is liable to these plaintiffs, to whom the sureties or legal representatives of the late *Deborah Duncan* can, perhaps, be in no way held accountable; certainly not in this suit. The present guardian of these infant defendants, *Joseph Robinson*, not having answered; and having thereby tacitly admitted, that he had received a sufficiency of rents and profits from his ward's estate, must be held absolutely liable for the whole amount of the annuity which has accrued and been left unpaid, during the time of his guardianship. For the purpose of having a statement made upon these principles, the case must be again sent to the auditor.

Ordered, that this case be, and the same is hereby again referred to the auditor, with directions to state an account, shewing the amount of the arrearages of the said annuity which became due during the life time of the late *Deborah Duncan*; after giving her credit for the sum of \$20, as of the year 1821, in addition to the credits heretofore given. And further, to state an account of the amount of the arrearages of the said annuity, left unpaid by the present guardian, the defendant *Joseph Robinson*.

On the 13th of August, 1829, the auditor reported, that he had in obedience to this order, again examined the proceedings, and stated, *first*, an account between *Deborah Duncan*, deceased, and the complainants, in which was charged the arrearages of the complainant's annuity to the supposed time of *Deborah Duncan's* death. That the proof was, that she died in the latter end of the year 1824; upon which he had assumed, as a mean period, the 4th of October of that year. That he had allowed a credit for